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specimens other than urine are collected for drug testing. Urine specimens collected for drug testing must be subject to validity testing.

(e) The specimen collection and drug and alcohol testing procedures of FFD programs under this subpart must protect the donor's privacy and the integrity of the specimen, and implement stringent quality controls to ensure that test results are valid and attributable to the correct individual. At the licensee's or other entity's discretion, specimen collections and alcohol testing may be conducted at a local hospital or other facility under the specimen collection and alcohol testing requirements of 49 CFR Part 40 and subsequent amendments thereto.

(f) Testing of urine specimens for drugs and validity, except validity screening and initial drug and validity tests that may be performed by licensee testing facilities, must be performed in a laboratory that is certified by HHS for that purpose, consistent with its standards and procedures for certification. Any initial drug test performed by a licensee or other entity subject to this subpart must use an immunoassay that meets the requirements of the Food and Drug Administration for commercial distribution. Urine specimens that yield positive, adulterated, substituted, or invalid initial validity or drug test results must be subject to confirmatory testing by the HHS-certified laboratory, except for invalid specimens that cannot be tested. Other specimens that yield positive initial drug test results must be subject to confirmatory testing by a laboratory that meets stringent quality control requirements that are comparable to those required for certification by the HHS.

(g) Licensees and other entities shall provide for an MRO review of positive, adulterated, substituted, and invalid confirmatory drug and validity test results to determine whether the donor has violated the FFD policy, before reporting the results to the individual designated by the licensee or other entity to perform the suitability and fitness evaluations required under § 26.419.

[73 FR 17176, Mar. 31, 2008, as amended at 75 FR 73941, Nov. 30, 2010]

§ 26.406 Fitness monitoring.

(a) The requirements in this section apply only if a licensee or other entity does not elect to subject the individuals specified in § 26.4(f) to random testing for drugs and alcohol under § 26.405(b).

(b) Licensees and other entities shall implement a fitness monitoring program to deter substance abuse and detect indications of possible use, sale, or possession of illegal drugs; use or possession of alcohol while constructing or directing the construction of safety- or security-related SSCs; or impairment from any cause that if left unattended may result in a risk to public health and safety or the common defense and security.

(c) Licensees and other entities shall establish procedures that monitors shall follow in response to the indications and actions specified in paragraph (b) of this section and train the monitors to implement the program.

(d) Licensees and other entities shall ensure that the fitness of individuals specified in § 26.4(f) is monitored effectively while the individuals are constructing or directing the construction of safety- and security-related SSCs, commensurate with the potential risk to public health and safety and the common defense and security imposed by the construction activity. To achieve this objective, licensees and other entities shall consider the number and placement of monitors required, the necessary ratio of monitors to individuals specified in § 26.4(f), and the frequency with which the individuals specified in § 26.4(f) shall be monitored while constructing or directing the construction of each safety- or security-related SSC.

[73 FR 17176, Mar. 31, 2008, as amended at 75 FR 73941, Nov. 30, 2010]

§ 26.407 Behavioral observation.

While the individuals specified in § 26.4(f) are constructing or directing the construction of safety- or security-related SSCs, licensees and other entities shall ensure that these individuals are subject to behavioral observation, except if the licensee or other entity